

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

CHARLES B. PILAND, DECEASED

Claimant

VS.

CITY OF WICHITA

Respondent

Self-Insured

)
)
)
)
)
)
)

Docket No. 227,792

ORDER

The decedent's widow (claimant) requested review of the Order dated December 9, 1997, entered by Administrative Law Judge John D. Clark.

ISSUES

The Administrative Law Judge granted respondent's request to quash claimant's deposition of Michael Payne, respondent's risk manager. Claimant requests Appeals Board review of that Order and contends that Mr. Payne possesses an investigation report which may indicate there exists a third-party claim arising from decedent's death. Respondent contends the report is not discoverable because of the attorney-client privilege.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, the Appeals Board finds as follows:

At this juncture of the proceeding, the Appeals Board lacks the jurisdiction and authority to review the Order quashing the deposition of Michael Payne. Therefore, claimant's appeal should be dismissed.

The Appeals Board's jurisdiction and authority to conduct appellate review is created by K.S.A. 1997 Supp. 44-534a and K.S.A. 1997 Supp. 44-551. Because this is not an

appeal of a preliminary hearing, K.S.A. 1997 Supp. 44-534a is not applicable. Because this is not an appeal from a final order or award, K.S.A. 1997 Supp. 44-551 does not confer appellate jurisdiction upon the Board.

The Order to quash the deposition is in the nature of a non-preliminary hearing interlocutory order which the legislature has determined should not be reviewed until there has been a full hearing on the claim.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that claimant's request for review of the Order dated December 9, 1997, entered by Administrative Law Judge John D. Clark should be, and hereby is, dismissed.

IT IS SO ORDERED.

Dated this ____ day of February 1998.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Diane F. Barger, Wichita, KS
Edward D. Heath, Jr., Wichita, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director